

Message Text

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47

ACTION OES-04

INFO OCT-01 EUR-08 IO-04 ISO-00 NSA-01 SS-15 PM-03 ACDA-05

CIAE-00 INR-05 L-01 NSC-05 RSC-01 FEAE-00 SP-02 /055 W

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P 301517Z OCT 74

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC PRIORITY 5215

INFO AMEMBASSY ROME PRIORITY

AEC GERMANTOWN

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY THE HAGUE

USMISSION EC BRUSSELS

USMISSION GENEVA

AMEMBASSY MOSCOW

C O N F I D E N T I A L IAEA VIENNA 9206

E.O. 11652: GDS

TAGS: PARM, TECH, IAEA, IT, EEC

SUBJECT: PERENNIAL ITALIAN NPT AND SAFEGUARDS PROBLEM

REF: IAEA VIENNA 9205

FOLLOWING IS AGENCY INFORMAL PAPER ON ITALIAN PROPOSAL

REFERRED REFTEL. TREAT AT PRESENT AS NOFORN. BEGIN TEXT:

IAEA/EURATOM SAFEGUARDS AGREEMENT (INFCIRC/193)

RATIFICATION BY A MEMBER OF THE COMMUNITY NOT PARTY TO NPT

LEGAL PROBLEMS

1. THE AGREEMENT DOES NOT CONTAIN PROVISIONS WITH
RESPECT TO SAFEGUARDS IN CONNECTION WITH THE EXPORT
OF NUCLEAR MATERIAL OUTSIDE THE COMMUNITY.

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(A) THIS IS NOT NECESSARY WHERE ALL PARTIES ARE ALSO PARTY TO NPT AS PROBLEM IS COVERED BY ARTICLE III.2 OF NPT;

(B) SOME PROVISION/ARRANGEMENT WOULD BE NECESSARY, HOWEVER, FOR A PARTY WHICH IS NOT PARTY TO NPT (CF. SAFEGUARDS AGREEMENT WITH PANAMA IN CONNECTION WITH TLA TELCO TREATY, APPROVED BY THE BOARD OF GOVERNORS IN JUNE 1974).

2. THE DURATION OF THE AGREEMENT IS BASED ON THE HYPOTHESIS THAT ALL PARTIES ARE ALSO PARTY TO NPT.

(A) NO PROBLEM EXISTS WITH RESPECT TO THE ENTRY INTO FORCE OF THE AGREEMENT AS THIS DEPENDS ONLY ON THE INTERNAL "REQUIREMENTS" OF THE COMMUNITY AND THE STATES (ARTICLE 25(A)):

(B) ON THE OTHER HAND, THE AGREEMENT REMAINS IN FORCE ONLY AS LONG AS THE STATES (I.E. ALL THE STATES) ARE PARTIES TO THE TREATY (ARTICLE 25(B)). CONSEQUENTLY EVEN IF THE AGREEMENT ENTERED INTO FORCE IT WOULD LAPSE IMMEDIATELY THEREAFTER AUTOMATICALLY.

POSSIBLE SOLUTION

1. WITH RESPECT TO THE PROBLEM OF EXPORT, THE COUNTRY COULD INFORM THE AGENCY BY LETTER THAT IT "WOULD UNDERTAKE NOT TO PROVIDE: (A) SOURCE OR SPECIAL FISSIONABLE MATERIAL, OR (B) EQUIPMENT OR MATERIAL ESPECIALLY DESIGNED OR PREPARED FOR THE PROCESSING USE OR PRODUCTION OF SPECIAL FISSIONABLE MATERIAL, TO ANY NON-NUCLEAR-WEAPON STATE FOR PEACEFUL PURPOSES, UNLESS THE SOURCE OR SPECIAL FISSIONABLE MATERIAL SHALL BE SUBJECT TO THE SAFEGUARDS OF THE AGENCY" (CF. ARTICLE III.2 OF NPT).

2. AS CONCERNS THE PROBLEM OF DURATION, THIS COULD BE SOLVED BY A LEGAL INSTRUMENT (WHICH COULD BE MADE PUBLIC) SIGNED BY ALL PARTIES TO THE AGREEMENT, CONTAINING TWO BASIC PROVISIONS:

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(I) THE APPLICATION OF ARTICLE 25(B) WOULD BE SUSPENDED; AND

(II) VALIDITY OF THE LEGAL INSTRUMENT WOULD TERMINATE ON THE DAY WHICH THE MEMBER BECAME A PARTY TO NPT.

A FORM MIGHT BE FOUND WHICH WOULD NOT REQUIRE EITHER THE PRIOR APPROVAL OF THE BOARD OF GOVERNORS, THE COMMISSION

OF THE COMMUNITIES OR THE PARLIAMENTS OF THE STATES.

3. IT WOULD BE PREFERABLE IF THE LEGAL INSTRUMENT
MADE REFERENCE TO THE LETTER MENTIONED IN PARAGRAPH 1
AND IF THE LETTER WERE ANNEXED THERETO.PORTER

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Message Attributes

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Draft Date: 30 OCT 1974
Decaption Date: 01 JAN 1960
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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Executive Order: GS
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